

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF TEXAS
CORPUS CHRISTI DIVISION

DANNY E. MARTINEZ,

Plaintiff,

VS.

MICHAEL J. ASTRUE,

Defendant.

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CIVIL ACTION NO. C-10-104

ORDER ADOPTING MEMORANDUM AND RECOMMENDATION

On October 28, 2010, United States Magistrate Judge B. Janice Ellington signed a Memorandum and Recommendation recommending as follows:

1) that the plaintiff's amended motion for summary judgment (D.E. 12) be granted and the defendant's cross-motion for summary judgment (D.E. 13) be denied;

2) that plaintiff's case be remanded to the Social Security Administration so that a proper assessment can be made of the treating physician's opinion and also so that, if warranted, plaintiff can undergo additional diagnostic testing in accordance with 20 C.F.R. 404.1519, 404..1519k and 404.1519m; and

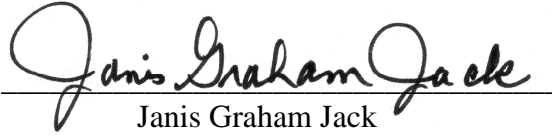
3) that the remand be made pursuant to the fourth sentence of 42 U.S.C. § 405(g).

Seeing no objection to this recommendation by either party and having now reviewed the recommendation, this Court hereby adopts as its own the Memorandum and Recommendation as the decision of the Court. Accordingly, it is ORDERED as follows:

1) the plaintiff's amended motion for summary judgment is granted and the defendant's cross-motion for summary judgment is denied; and

2) plaintiff's case is remanded to the Social Security Administration pursuant to the fourth sentence of 42 U.S.C. § 405(g) so that a proper assessment can be made of the treating physician's opinion and also so that, if warranted, plaintiff can undergo additional diagnostic testing in accordance with 20 C.F.R. 404.1519, 404.1519k and 404.1519m.

SIGNED and ORDERED this 29th day of November, 2010.


Janis Graham Jack
United States District Judge